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8 Attorney for Petitioner **Demar Barnes**

9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 DEMAR RAHYMES BARNES,

13 Petitioner,

14 v.

15 D.W. NEVEN, et al.,

16 Respondents.

Case No. 2:14-cv-01946-RFB-PAL

**UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE AN
OPPOSITION TO RESPONDENTS
MOTION TO DISMISS**

(First Request)

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18 The Petitioner, Demar Rahymes Barnes, by and through his attorney of record,
19 Jason F. Carr, Assistant Federal Public Defender, moves this Court for an
20 enlargement of time of twenty-five (25) days from November 11, 2016 to December 6,
21 2016, in which to file an Opposition to Respondents Motion to Dismiss. This motion
22 is based upon the attached points and authorities and all pleadings and papers on
23 file herein.

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1 DATED this 11th day of November, 2016.

2 Respectfully submitted,
3 RENE L. VALLADARES
4 Federal Public Defender

5 /s/ Jason F. Carr

6 JASON F. CARR
7 Assistant Federal Public Defender
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POINTS AND AUTHORITIES

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2 1. On March 31, 2016, the Law Office of the Federal Public Defender “FPD”
3 was appointed to represent Petitioner in the above-entitled action. *See* ECF No. 11.
4 After the Federal Public Defender Office conducted a conflict check and it was
5 determined that there were no conflicts, Assistant Federal Public Defender Jason F.
6 Carr filed his Notice of Representation on April 15, 2016. ECF No. 12. On September
7 29, 2016, Barnes filed his Amended Petition and supporting exhibits. ECF 21, 22.
8 Respondents filed their Motion to Dismiss on October 25, 2016. ECF 25. Counsel for
9 Petitioner is now requesting an extension of time of twenty-five day to file the
10 Opposition to Motion to Dismiss. This is the first request for an extension of time.

11 2. The additional period of time is necessary in order to effectively and
12 thoroughly represent Mr. Barnes. This motion is not filed for the purposes of delay
13 but in the interests of justice, as well as in the interests of Mr. Barnes.

14 3. The primary reason for this request is I have an oral argument with the
15 United States Court of Appeals for the Ninth Circuit on November 17, 2016, in CA
16 No. 15-15439. This is an important argument involving prosecutorial misconduct and
17 systemic issues in the District of Nevada regarding, inter alia, late disclosure of
18 discovery. It is a complex case with a large record. I am devoting the next week to
19 preparing for this argument.

20 4. On or about November 9, 2016, I contacted Senior Deputy Attorney
21 General Victor-Hugo Schulze, II concerning this request for an extension of time. Mr.
22 Schulze has no objection to a request for an extension of time, with the caveat that
23 nothing about the decision not to oppose a Petitioner’s extension request signifies an
24 implied finding of a basis for tolling any applicable period of limitations or the waiver
25 of any other procedural defense. Petitioner at all times remains responsible for
26 calculating any limitations periods and understands that, in granting an extension

1 request, the Court makes no finding or representation that the petition, any
2 amendments thereto, and/or any claims contained therein are not subject to dismissal
3 as untimely.

4 5. This motion is not filed for the purpose of delay, but in the interests of
5 justice, as well as in the interest of Mr. Barnes. Nev. R. Prof. Conduct 1.1. I request
6 that this Court grant the request for an extension of time to file the Opposition to
7 Motion to Dismiss to December 6, 2016, to ensure the effective and thorough
8 representation of Mr. Barnes.

9 DATED this 11th day of November, 2016.

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11 Respectfully submitted,
12 RENE L. VALLADARES
13 Federal Public Defender

14 /s/ Jason F. Carr

15 JASON F. CARR
16 Assistant Federal Public Defender

17 IT IS SO ORDERED:

18 IT IS SO ORDERED:

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20 RICHARD F. BOULWARE, II
21 United States District Judge

22 DATED this 29th day of December, 2016.
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CERTIFICATE OF SERVICE

In accordance with the Rules of Civil Procedure, the undersigned hereby certifies that on this 12th day of November 2016, a true and correct copy of the foregoing was filed electronically with the United States District Court. Electronic service of the foregoing document shall be made in accordance with the master service list as follows:

Victor-Hugo Schulze, II
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Special Prosecutions Division
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VSchulze@ag.nv.gov

/s/ Jason F. Carr

Assistant Federal Public Defender